

ENTERED

March 22, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JOHN D. PELKO,

Plaintiff,

V.

LUIS REYNA,

Defendant.

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CIVIL ACTION NO. 2:24-CV-0008

ORDER ADOPTING MEMORANDUM & RECOMMENDATION

Before the Court is Magistrate Judge Jason Libby's Memorandum and Recommendation ("M&R"). (D.E. 13). The M&R recommends that the Court dismiss Plaintiff's claims with prejudice and count the dismissal as a "strike" for purposes of 28 U.S.C. § 1915(g). (D.E. 13, p. 7).

The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No objection has been filed. When no timely objection has been filed, the district court need only determine whether the Magistrate Judge's M&R is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Badaiki v. Schlumberger Holdings Corp.*, 512 F. Supp. 3d 741, 743–44 (S.D. Tex. 2021) (Eskridge, J.).


Having reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the M&R is not clearly erroneous or contrary to law, the Court **ADOPTS** the M&R in its entirety. (D.E. 13). Accordingly, the Court **DISMISSES with prejudice** all of Plaintiff's claims, until the *Heck* conditions are satisfied.¹

¹ *See Johnson v. McElveen*, 101 F.3d 423, 424 (5th Cir. 1996) (citing *Heck v. Humphrey*, 512 U.S. 477 (1994)).

(D.E. 1).

Further, this dismissal counts as a **STRIKE** for purposes of § 1915(g). The Clerk of Court is **INSTRUCTED** to send notice of this dismissal to the Manager of the Three Strike List for the Southern District of Texas at Three_Strikes@tx.uscourts.gov. A final judgment will be entered separately.

SO ORDERED.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas
March 21, 2024